



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,739	08/21/2003	Bemd Gigas	87335.3820	6205

7590 11/21/2005

BAKER & HOSTETLER LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

EXAMINER

DRODGE, JOSEPH W

ART UNIT	PAPER NUMBER
----------	--------------

1723

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,739

Applicant(s)

GIGAS ET AL.

Examiner

Joseph W. Drodge

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-24 and 26 is/are rejected.
- 7) ☒ Claim(s) 7 AND 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

ACCEPTANCE OF COLOR PHOTOGRAPHS

In regard to the Petition under 37 CFR 1.84, the request to enter figures 4 and 5 as color photographs has been accepted. However, see the Objections to the drawings elsewhere in this office action.

DRAWING OBJECTIONS & REQUIREMENT FOR NEW DRAWINGS

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because they do not contain any reference numerals directed to an of the claimed features or corresponding to their description in the Specification. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities: the Specification contains numerous drawing reference numerals which do not correspond to any reference numerals shown in the instant drawings, some of the reference numerals appear to correspond instead to features shown in the drawings of copending application 10/950,498 instead of the instant drawings.

Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,6,14-16,18-24 and 26 lack rejected under 35 U.S.C. 102(b) as being anticipated by Hirs patent 5,989,415.

Regarding independent claim 1, Hirs discloses a settler compartment for separating oil from water that comprises 1st weir means including weir 22 and baffle 24 and 2nd weir means that includes weir partitions 34, 36 and 50 that rise from bottom surfaces of a labyrinth section 38/60 of the compartment and a partition 60 that extends downward from a top of the labyrinth section. For independent claims 20 and 26, Hirs also discloses coalescing means in the settler compartment including a coalescing section 18 that contains coalescing means 16 and inlet opening means 14/12 that admits an oil/water mixture to the compartment that excludes air entrainment.

Regarding dependent claims, claims 2 and 3 are descriptive and directed to functional language, hence do not define apparatus structure, for claims 5 and 6 partitions 34 and 36 of the 2nd weir are clearly longer than that of partition 60 as shown in figure 3 and are at about the oil/water interface surface as shown in figures 1,2 and 6, for claims 14-16 weir surfaces are approximately at a 90 degree angle to the long axis of the compartment, for claim 17 the space between weir 22 and coalescer 16 constitutes a riser, for claims 18 and 19 see sumps or drain taps 40,54 and 52, for claim 21, the coalescer 10/16 directs flow into the 1st weir, for claim 21 see labyrinth means 70 directing oil into quiescent portion 30, for claim 22 the flow is upwardly directed by the back surface of coalescer 10/16 adjacent weir 22, for claim 23 see means for directing the oil phase 24 or 70/30 shown in figure 8, for claim 24 see inlet

Art Unit: 1723

opening valve 14 which inherently comprises at least one movable structure.

Claims 1-6 and 8-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Furlow patent 5,066,407.

Regarding independent claim 1, Furlow discloses a settler compartment 20A for separating oil from water that comprises 1st weir means including weir 9b and/or structure comprising 8/8a/78b,80 and 2nd weir means that includes weir partitions 12d and 9d that rise from bottom surfaces of a labyrinth section 84 of the compartment and a partition 12b that extends downward from a top of the labyrinth section.

Regarding dependent claims, claims 2 and 3 are descriptive and directed to functional language, hence do not define apparatus structure, for claims 5 and 6 partition 12s of the 2nd weir is clearly longer than partition 9d as shown in figures 4 and 6, for claim 8 the 1st weir 9b and 9a each have protruding upwardly angled lips, for claim 9 figures 4 and 6 appear to show the 1st weir being angled, for claim 10 see downwardly directing lip of weir 9b, for claims 11 and 12 wall 78 constitutes an inclined plate, varying about an approximate 45 degree angle as shown in figures 4 and 6 and protruding into the weir complex defined by components 9a, 8 and 9b, for claim 13 weir 9a in particular appears from the figures to be located at a varying distance from the front or back of the compartment and to be angled. for claims 14-16 weir surfaces are approximately at a 90 degree angle to the long axis of the compartment, for claim 17 the space between wall 78 and structure 8 constitutes a

Art Unit: 1723

riser, for claims 18 and 19 see sump defined between further partition 9c and bottom wall of section 84.

Claims 7 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 7 distinguishes, because the prior art does not teach or fairly suggest an apparatus having the 1st and 2nd weir as recited within independent claim 1 and dependent claim 5 and further comprising the front wall of the 1st weir having an adjustable and rotatably coupled lip.

Claim 25 distinguishes, because the prior art does not teach or fairly suggest an apparatus having a means for coalescing and 1st and 2nd weir structure as recited within independent claim 20 and dependent claim 21 and further having an adjustable lip means coupled to a labyrinth means for reducing splash

Art Unit: 1723

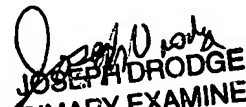
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

November 15, 2005


JOSEPH DRODGE
PRIMARY EXAMINER